

**Letter of Findings: 01-20170791
Indiana Individual Income Tax
For The Tax Year 2013**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual was required to file a 2013 Indiana individual income tax return because he was an Indiana resident and had unreported Indiana source income.

ISSUE

I. Indiana Individual Income Tax - Imposition.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the Department's proposed assessment for the 2013 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. The Indiana Department of Revenue ("Department") determined that Taxpayer was an Indiana resident in 2013 and that Taxpayer failed to file his 2013 Indiana individual income tax return. The Department therefore issued a proposed assessment for 2013 for income tax, penalty, and interest.

After receiving the proposed assessment, Taxpayer filed the present protest. An administrative phone hearing was held. This Letter of Findings ensues and addresses Taxpayer's protest of the proposed assessment for tax year 2013. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Imposition.

DISCUSSION

The Department assessed Taxpayer income tax for the 2013 tax year, concluding that Taxpayer was an Indiana resident and that he failed to file a 2013 Indiana individual income tax return. Taxpayer asserted that he was not aware that he had an obligation to file an Indiana individual income tax return for tax year 2013. The issue, therefore, is whether Taxpayer had a legal obligation to file an Indiana income tax return and was subject to Indiana adjusted gross income tax for tax year 2013.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). Thus, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-8.1-5-1(b) additionally provides, "If the department reasonably believes that a person has not reported the proper amount of

tax due, the department *shall* make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department." (*Emphasis added*).

IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered taxpayers' Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayers' taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In the instant matter, Taxpayer failed to file an Indiana individual income tax return for tax year 2013, mistakenly believing that he did not have a filing obligation in Indiana. Taxpayer had filed a federal individual income tax return for tax year 2013, reporting Indiana source income. Because Taxpayer failed to file his 2013 income tax return, the Department prepared a proposed assessment based upon records from the Internal Revenue Service and income reported on Taxpayer's federal return for 2013. Taxpayer asserts that he and his wife do not have the financial means to pay the 2013 assessment. However, regardless of Taxpayer's financial means, he still has a legal obligation to file an individual income tax return reporting taxable income consistent with that which was required to be reported on his federal income tax return.

Because Taxpayer is an Indiana resident and had Indiana source income in 2013, he was required to file a 2013 Indiana income tax return. Taxpayer presented no other legal argument as to why he was not required to file an Indiana income tax return or pay the proposed assessment. Taxpayer has therefore not met his legal burden of showing that the proposed assessment issued by the Department is incorrect.

FINDING

Taxpayer's protest is respectfully denied.

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